

APPEAL NO. 040602
FILED MAY 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 19, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 8th quarter from June 10 through September 8, 2003; that the claimant is entitled to SIBs for the 9th quarter from September 9 through December 8, 2003; that the claimant is entitled to SIBs for the 10th quarter from December 9, 2003, through March 8, 2004; and that the designated doctor was not properly appointed as required by Section 408.151. The appellant (carrier) has appealed and urges reversal of the SIBs entitlement for each quarter, and affirmance of the decision regarding the designated doctor. There is no response in the appeal file from the claimant. The determination that the designated doctor was improperly appointed under Section 408.151 was not appealed and has become final as a matter of law Section 410.169.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Section 408.142(a)(4) states that one requirement for SIBs eligibility is that the claimant attempt in good faith to obtain employment commensurate with his ability to work. Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). As an appellate tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The evidence was conflicting and applying the standard of review stated above, we find no legal basis to overturn the SIBs decision of the hearing officer.

We note that, at the CCH, the claimant argued that the designated doctor was appropriately appointed under Section 408.151, and that the hearing officer explained why he did not regard this provision as applicable under the facts of this case. However, because this issue is not before us on appeal, we will refrain from discussing it.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge